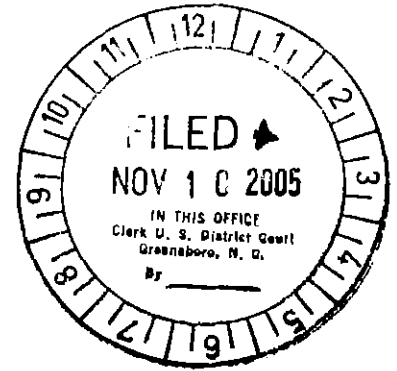


UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
No. \_\_\_\_\_



AMERICAN DECORATIVE FABRICS, LLC, )  
 )  
Plaintiff, )  
 )  
-against- )  
 )  
AMERICAN CENTURY HOME FABRICS, )  
INC., )  
 )  
Defendant. )  
\_\_\_\_\_ )

**COMPLAINT**

**PLAINTIFF DEMANDS**  
**TRIAL BY JURY**

**1:05CV00989**

American Decorative Fabrics, LLC, ("ADF"), by and through its counsel of record, for its  
Complaint, hereby alleges as follows:

**PARTIES**

1. ADF is a New York corporation with its principal place of business at 303 Fifth Avenue, New York, New York 10016. ADF is in the business of designing original copyrighted fabric designs, and manufacturing and distributing fabrics bearing such copyrighted designs.

2. Upon information and belief, defendant American Century Home Fabrics, Inc. ("American Century") is a North Carolina corporation with its principal place of business at 1303 Corporation Drive, Archdale, North Carolina 27263. Upon information and belief, American Century is in the business of manufacturing and distributing comforters and other products.

**JURISDICTION**

3. This is a civil action for copyright infringement arising under the copyright laws of the United States, 17 U.S.C. §101 et seq. (hereinafter the "Copyright Act"). Jurisdiction is

based on 28 U.S.C. §§1331 and 1338(a), and venue is proper under 28 U.S.C. §§1391(b) and 1400(a).

### **FACTS**

4. In or about 2002, the fabric design titled "Sherwood" was created by an employee of ADF, which owns the copyright in such design as a work made for hire. The Sherwood design is an original creation and constitutes copyrightable subject matter under the Copyright Act. A copy of the Sherwood design is attached hereto as Exhibit A.

5. The copyright in the Sherwood design has been duly registered with the United States Copyright Office. A copy of registration certificate VAu 621-640 reflecting ADF's ownership of the U.S. copyright in the Sherwood design is attached hereto as Exhibit B.

6. Upon information and belief, defendant American Century has infringed the copyright in the Sherwood design by manufacturing, selling, offering for sale, advertising, promoting and distributing comforter sets under the designation "Fairway" bearing a design copied from and strikingly similar to the Sherwood design (the "Infringing Products"), without authorization from ADF, the exclusive owner of the right to reproduce the Sherwood design in the United States. A copy of the Infringing Product is attached hereto as Exhibit C.

7. On or about August 24, 2005, ADF, through its attorney, wrote to American Century demanding that it cease and desist from any further exploitation of the Infringing Products. To date, American Century has refused to comply with the demands made by ADF.

8. Upon information and belief, by the acts complained of, American Century has made profits and gains to which it is not in law or in equity entitled.

9. The aforementioned acts of defendant American Century have damaged and will continue to damage ADF and cause it irreparable harm, and ADF has no adequate remedy at law.

10. Upon information and belief, the infringing acts herein were committed in willful and deliberate violation of ADF's copyright rights.

**CLAIM FOR RELIEF**

11. ADF repeats the allegations set forth in paragraphs 1-10 above with the same force and effect as if set forth fully herein.

12. By virtue of its conduct as described above, American Century has infringed ADF's exclusive copyright rights in the Sherwood design.

WHEREFORE, ADF demands judgment as follows:

A. That defendant American Century, its agents, officers, servants, employees, successors and/or assigns, and all persons or companies in active concert and/or participation with them, be preliminarily and permanently enjoined from reproducing, making, reprinting, publishing, displaying, manufacturing, selling, offering for sale, promoting, advertising, distributing and/or commercially exploiting in any manner, either directly or indirectly, any products on which are imprinted or which display unauthorized copies of the Sherwood design, or designs substantially similar thereto, including but not limited to the Infringing ;

B. That ADF be entitled to recover all damages suffered by ADF as a result of defendant's infringing acts, and all profits derived from defendant's wrongful acts in an amount to be determined at the trial of this action; or in lieu of such damages and profits, should ADF so elect, an award of statutory damages, as provided by 17 U.S.C. §504(c);

C. That defendant be directed to deliver to ADF for destruction all products, designs, brochures, catalogues, means of manufacture and/or other materials in defendant's possession or control, which, if sold, distributed or used in any way would violate paragraph A above; and

D. That ADF recover from defendant all costs incurred in this action, including reasonable attorneys' fees, together with such other and further relief as this Court may deem just and proper.

This the 10<sup>th</sup> day of November, 2005



Pressly M. Millen  
State Bar No. 16178

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